



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

18

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/678,616	10/04/2000	Max Harry Weil	20/168	6966

7590 03/18/2002

LEON D. ROSEN
FREILICH, HORNBAKER & ROSEN
10960 Wilshire Blvd., Suite 1220
Los Angeles, CA 90024

EXAMINER

YU, JUSTINE ROMANG

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 03/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/678,616	WEIL ET AL.
	Examiner Justine R Yu	Art Unit 3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 January 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 6,8,10,13 and 14 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 6,8,10,13 and 14 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is responsive to the amendment filed on 1/25/02. As directed by the amendment, claims 8 and 10 were amended, claims 1-5, 7, 9, 11, and 12 were canceled, and claims 13 and 14 were added. Thus, claims 6, 8, 10, 13, and 14 are presently pending in this application.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "182" has been used to designate both "location" and "rivet", see figure 2. Correction is required.

3. The drawings are objected to because there are two figures being designated as "figure 1". In addition, in figure 3, the numeral "16" being pointed to the belt. Furthermore, the relationship between element "264" and the compression device is not shown, same as the element "260" in figure 3 Correction is required.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "saucer-shaped element" in claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3764

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8, 10, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waide et al (5,399,148).

Waide teaches a cardiac massage device having an energizable compressor assembly 1 (figure 2) including a pressing member 2, a torso wrap 5, a stabilizer having a plurality of leg portions 3.

Regarding claim 8, Waide differs from the present invention in that Waide has leg portions being placed to support the pressing member on its left and right hand sides rather than placing the leg portions that lies respectively closer to the head and legs of the patient than the pressing member. However, the feature of shifting the positions of the leg portions is considered as an obvious design choice since placing the leg portions to the recited locations would not have modified the operation of the device.

Regarding claim 10, Waide's stabilizer has a plate shaped element 4 but lacks a saucer-shaped element. However, the feature of fabricate a saucer-shaped element which extending more than 180 degrees rather than a plate shaped element is considered as an obvious design choice, since the shape of the element is not a criticality and it appears that Waide's stabilizer would perform equally well with a saucer-shaped element.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hewson (3,307,541) in view of Kuroiwa (JP 411,301,484 A).

Art Unit: 3764

[Signature] Regarding claim 6, Hewson teaches a cylinder 14 having a piston 52. Hewson does not explicitly disclose that the piston including a plurality of telescoping piston parts. However, Kuroiwa teaches a pneumatic cylinder having a telescopic piston 1 which including a plurality of piston parts (figure 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hewson's cylinder with a telescopic piston as taught by Kuroiwa, in order to be able to selectively control the extended length of the piston.

Response to Arguments

8. Applicant's arguments with respect to claims 6, 8, 10, and 13-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justine R Yu whose telephone number is (703)308-2675. The examiner can normally be reached on 8:30am - 6:00Pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

JR
Justine R Yu
Primary Examiner
Art Unit 3764

Application/Control Number: 09/678,616

Art Unit: 3764

Page 5

JYU

March 14, 2002